

ORDINANCE NO. R- 2016-05

TAX CODE(S) 82-06-31-020-084.013-029

AN ORDINANCE TO REZONE CERTAIN REAL ESTATE IN THE CITY OF EVANSVILLE, STATE OF INDIANA, MORE COMMONLY KNOWN AS 911 SE Second Street, Evansville, IN 47713
BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF EVANSVILLE, INDIANA, AS FOLLOWS, TO WIT:

Section 1 - That Ordinance no. G-82-51, being the Municipal Code of the City of Evansville, Indiana, 1982, and more particularly Title XV, Chapter 153, by making certain changes in Atlas 1, which is made part of said section with respect to the following described real estate located in the City of Evansville, Vanderburgh County, State of Indiana:

Lots Two (2), Three (3) and Part of Lot One (1) in Avon Place, an Addition to the City of Evansville, as per plat thereof, recorded in Plat Book "A", pages 36, 37 and 38 and transcribed of record in Plat Book "E", pages 40, 41 and 42 in the office of the Recorder of Vanderburgh County, Indiana and part of vacated Second Street;

Also Part of Lot Sixteen (16) in Samuel Lister's Re-Subdivision of a part of Out-lot Two (2) in the Upper Enlargement of the City of Evansville, as per plat thereof, recorded in Deed Record "D", pages 412 and 413 and transcribed of record in Plat Book "A", pages 128 and 129 and re-transcribed of record in Plat Book "E", pages 142 and 143 in the office of the Recorder of Vanderburgh County, Indiana and all being more particularly described as follows:

Commencing at the North corner of said Lot Sixteen (16) in Samuel Lister's subdivision; thence along the Northeast boundary of said Lot Sixteen (16), also being the Southwest right-of-way line of Southeast Second Street, South 32°23'29" East 40.00 feet to the true point of beginning; thence continue along the Southwest right-of-way line of Southeast Second Street

1st: South 32°23'29" East 145.60 feet to the Northwest right-of-way line of College Street; thence along said right-of-way line and the Southeast line of Lot Three (3) in Avon Place

2nd: South 57°27'52" West 149.47 feet to the South corner of said Lot Three (3); thence along the Southwest line of Lots One (1), Two (2) and Three (3) in Avon Place, also being the Northeast line of a 12 foot alley as depicted in said plat

3rd: North 32°23'29" West 145.79 feet to the South corner of the property conveyed to Jared Smith as described in deed recorded as Document Number 2010R-00006982 in the office of the Recorder; thence along the Southeast line of said Smith property

4th: North 57°32'14" East 149.47 feet to the true point of beginning and containing 0.500 acres (21,776.5 square feet) more or less

by changing the zoning classification of the above-described real estate from CO-2 to C2, and said real estate is hereby so rezoned and reclassified.

Section 2. The Director of the Area Plan Commission of Evansville and Vanderburgh County is hereby authorized and directed, upon the enactment and approval of this ordinance, to cause the change to be made on said Atlas 1 as set out in Section 1 of this Ordinance, and to make notation in ink thereon of reference to the number of this ordinance and the date of final publication of the amendatory ordinance after its passage and approval; however, failing to do so shall not invalidate this Ordinance.

Section 3. This ordinance shall be in full force and effect from and after its passage by the Common Council, its approval by the Mayor, and its publication as required by law, which publication is now ordered.

Section 4. The subject property herein rezoned shall be used and developed only in accordance with the use and development commitment which is incorporated as part of this Petition for Rezoning and recorded in the office of the Recorder of Vanderburgh County, Indiana on MAY 27, 2016 at Instrument No.: 2016R00013838 No improvement location permits shall be issued unless the proposed use is in compliance with said recorded use and development commitment.

Passed by the Common Council of Evansville, Indiana, on this 9 day of May, 20 16

ATTEST:

Gawwa Windhorst
City Clerk

Presented to me, the undersigned, City Clerk of the City of Evansville, Indiana, to the Mayor of said City, the 9 day of May, 2016

Mayor
President

Gawwa Windhorst
City Clerk

Having examined the foregoing Ordinance, I do now, as Mayor of the City of Evansville, Indiana, approve said Ordinance, and return same to the City Clerk this 13th day of MAY, 2016, at 1:00 o'clock

Paul Prince
Mayor of the City of Evansville, Indiana

This instrument prepared by: Thomas Keith, Andy Easley Engineering, Inc. Suite 205; 1133 West Mill Road, Evansville, IN 47710 (812)-424-2481. I affirm, under penalty for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

FILED
FEB 08 2016

Gawwa Windhorst
CITY CLERK

USE AND DEVELOPMENT COMMITMENT

WHEREAS, the undersigned, Gene Warren, Jr., manager, Warren Bank Properties, LLC, Incorporated, as Petitioner and as Owner of certain real estate situated in Vanderburgh County, Indiana, commonly described as 911 SE 2nd Street, Evansville, Indiana, more particularly described as follows:

Lots Two (2), Three (3) and Part of Lot One (1) in Avon Place, an Addition to the City of Evansville, as per plat thereof, recorded in Plat Book "A", pages 36, 37 and 38 and transcribed of record in Plat Book "E", pages 40, 41 and 42 in the office of the Recorder of Vanderburgh County, Indiana and part of vacated Second Street;

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3rd: North 32°23'29" West 145.79 feet to the South corner of the property conveyed to Jared Smith as described in deed recorded as Document Number 2010R-00006982 in the office of the Recorder; thence along the Southeast line of said Smith property

4th: North 57°32'14" East 149.47 feet to the true point of beginning and containing 0.500 acres (21,776.5 square feet) more or less

WHEREAS, the Real Estate is currently classified as an CO-2 zoning district under the Code of Ordinances of Vanderburgh County, Zoning Code (hereinafter the "Zoning Code") and is so indicated on the zoning maps maintained by the staff of the Evansville-Vanderburgh County Area Plan Commission; and

WHEREAS, Petitioner has requested that the Real Estate be reclassified to zoning district C2; and

WHEREAS, Petitioner is desirous of accommodating possible concerns of the surrounding property owners by making a written commitment concerning the use and development of the Real Estate pursuant to I.C. 36-7-4-613;

NOW, THEREFORE, in consideration of the foregoing, Petitioner makes the following use and development commitment concerning the use of the Real Estate:

1. All uses listed under zoning classification C2, EMC 18.70.010, shall be allowed **EXCEPT:**

- A. Service use of: Dry Cleaning and Laundry Pick Up Station;
- B. Retail Stores specializing in the sale or rental of the following
 - a. Automotive new parts, equipment and accessories;
 - b. Bicycles or mopeds;
 - c. Lawnmowers;
 - d. Package liquor stores;
 - e. Paint;
 - f. Pawnshop;
- C. The following service uses:
 - a. Laundromats;
 - b. Lawnmower repair;
 - c. Dry Cleaning
- D. The following recreational uses:
 - a. Arcade;
 - b. Indoor archery range;

- c. Bowling alley;
- d. Skating rink;
- e. Trampoline center
- E. Automotive service station.
- F. All of use Group Six, particularly:
 - a. Group home/community residential facility and similar facilities which provide residential services for persons in a supervised group living program;
 - b. Sororities and fraternities.
- G. Party Houses or Night Clubs, except for Taverns or Restaurants that might include live or recorded entertainment, dancing and/or cater to celebrations such as wedding, birthdays, graduations, holiday events, etc.

2. All commitments and undertakings herein expressed shall be binding on the Petitioner and Owners and the Petitioner's and Owner's heirs, legal representatives, successors and assigns, and shall run in favor of the Area Plan Commission of Evansville-Vanderburgh County and all the Owners of the real estate lying within the radius of one (1) mile from the real estate described and shall be enforced by invoking any legal, equitable or special remedy, including specific performance, injunction or other equitable relief pursuant to the manner of enforcement as set forth in I.C. 36-7-4-613, 36-7-4-1013 and 36-7-4-1014. If it is necessary to initiate administrative or judicial proceedings to enforce any such commitment or undertaking, the person or entity obtaining enforcement in such proceedings shall also recover its reasonable attorneys' fees and costs of suit from the undersigned.

3. The commitments and undertakings herein made and expressed shall terminate, expire and be of no further force or effect if the Real Estate should be rezoned due to the filing of some subsequent petition to amend the zoning classification of the Real Estate.

4. This Commitment shall be recorded in the office of the Recorder of Vanderburgh County, Indiana, and shall take effect upon the adoption of the zoning classification of the Real Estate from CO-2 to C2 District with a Use and Development Commitment.

IN WITNESS WHEREOF, this Use and Development Commitment is hereby made and entered into this day of _____, 2016, by Gene Warren, Jr., Manager, Warren Bank Properties, LLC, as Petitioner and Owner, for the purposes set forth herein.

 Gene Warren, Jr.
 Manager
 Warren Bank Properties, LLC

STATE OF INDIANA)

COUNTY OF)

SS:

Before me, a Notary Public in and for said County and State, personally appeared the within named Gene Warren, Jr. and acknowledged the execution of the above and foregoing to be his voluntary act and deed.

WITNESS my hand and seal this _____ day of _____, 2016.

 Notary Public

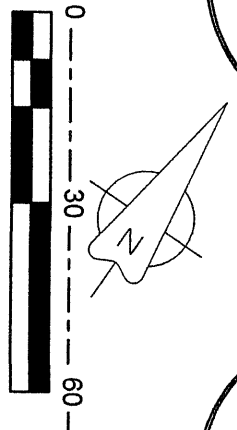
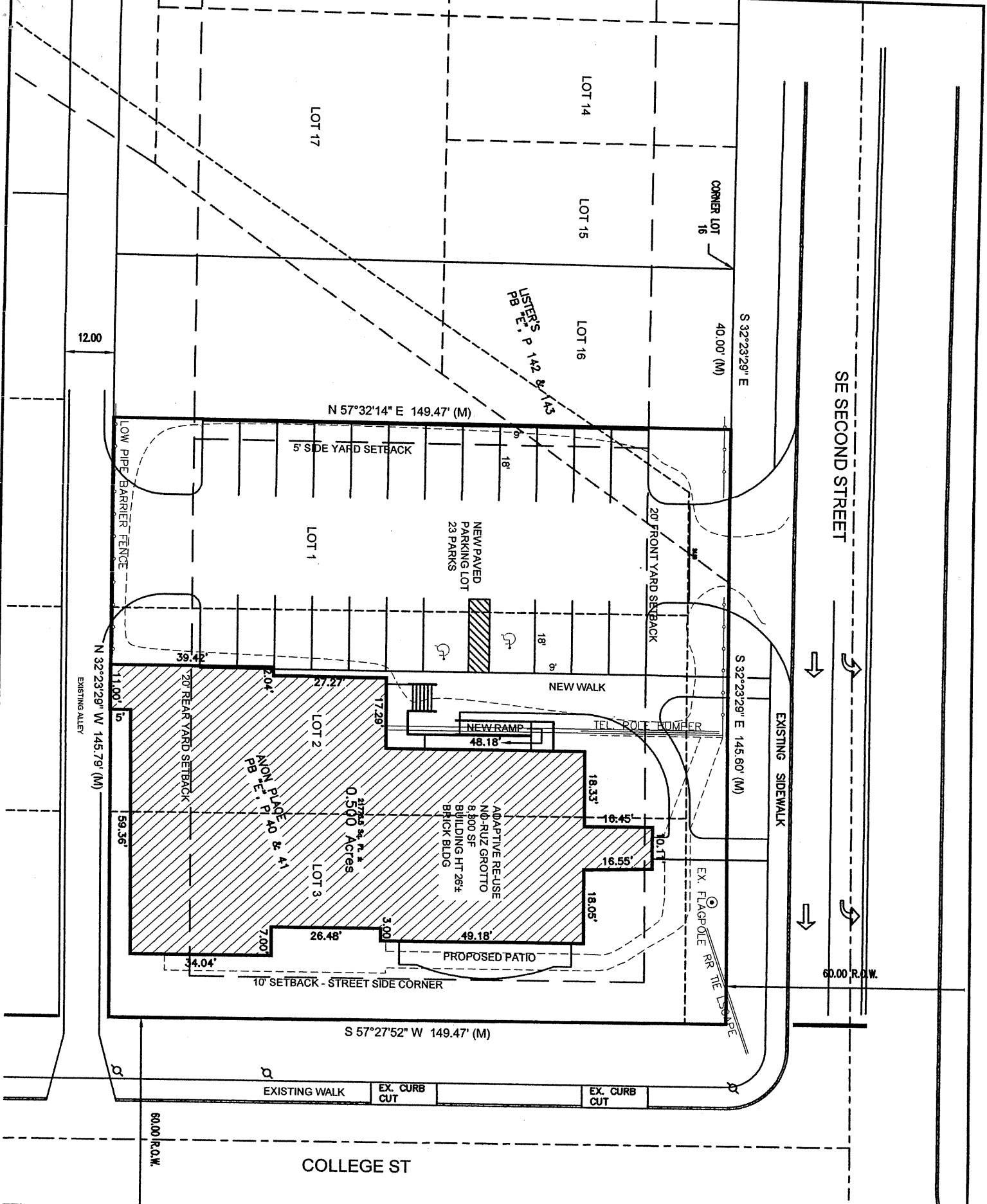
 Printed Name

MY COMMISSION EXPIRES: _____

Residence of Notary Public: _____

This Instrument Prepared by: Thomas Keith, ANDY EASLEY ENGINEERING, INC. Suite 205; 1133 W. Mill Rd, Evansville, IN 47710 (812) 424-2481

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.



AE₂		ANDY EASLEY ENGINEERING	
CIVIL ENGINEERING		LAND SURVEYING	
1133 W. MILL ROAD		EVANSVILLE, INDIANA 47710	
CLIENT:	North Park Corp.	DATE:	2/2/16
LOCATION:	911 SE 2nd St.	DWG. NO.:	9982
PROJECT:	REZONING No-Ruz Grotto	DRAWN BY:	tk
COUNTY:	Vanderburgh		

2016-3

-PC

ORDINANCE NO. R- 2016-05
COUNCIL DISTRICT: Constance Robinson, 4th Ward

PETITIONER Warren Bank Properties, LLC PHONE (812) 428-0005
 ADDRESS 4659 N 1st Ave., Evansville, IN ZIP CODE 47710
 OWNER OF RECORD Grotto Home Inc. PHONE (812) 422-8758
 ADDRESS 911 SE Second Street, Evansville, IN ZIP CODE 47713

- Petition is hereby made for the amendment of the "Zoning Mapsn of the Area Plan Commission of Evansville and Vanderburgh County, pursuant to the Indiana Code and the Municipal Code of Evansville.
- Premises affected are on the SW side of SE. 2nd St. a distance of 0 feet NW (N.S.E.W.) of the corner formed by the intersection of SE. 2nd St. and College St.
Registered Neighborhood Association (if applicable) Riverside Neighborhood Association

LEGAL DESCRIPTION Upper Enlargement Listers SUBDIVISION and Avons Place BLOCK LOT NO.
Lots 1-3 in Avon
Pt of Lt 16 in Listers
 (where applicable - if not in a subdivision, insert legal here or attach to ordinance)

- The commonly known address is 911 SE Second Street, Evansville, IN 47713
- The real estate is located in the Zone District designated as CO-2
- The requested change is to (Zone District) C2
- Present existing land use is Fraternal Organization
- The proposed land use is Restaurant / office / mercantile
- Utilities provided: (check all that apply)
 City Water X Electric X Gas X Storm Sewer X
 Sewer: Private NA Public X Septic NA
- All attachments are adopted by reference.
- The owner, or attorney for the owner, hereby certifies that the owner of record shown above owns 50% or more of the area of the above described real estate. I affirm under the penalties for perjury that the foregoing representations are true.

(REQUIRED) Signatures:

DATE 2/3/16 PETITIONER *Gene Warren Jr.*
 (when signed) PRINTED NAME Warren Bank Properties, LLC, Gene Warren, Jr., Manager
 DATE 2/3/16 OWNER OF RECORD *Bob Giolitto*
 (when signed) PRINTED NAME Bob Giolitto for Grotto Home Inc.

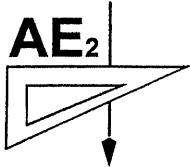
REPRESENTATIVE FOR PETITIONER
 (Optional)

NAME Thomas Keith
 ADDRESS / ZIP Suite 205, 1133 West Mill Road, Evansville, IN
 PHONE 812-424-2481

FILED

FEB 08 2016

Paula Winkler
 CITY CLERK



ANDY EASLEY ENGINEERING, INC.

1133 WEST MILL ROAD, SUITE 205
EVANSVILLE, INDIANA 47710

CIVIL ENGINEERS
LAND SURVEYORS

TELEPHONE (812) 424-2481
FACSIMILE (812) 425-3463

www.easleyengineering.com

CLIENT: North Park Corporation

PROPERTY: Grotto Home Corporation (Vol. 218, Pg. 579 & Vol. 470, Pg. 385); 911 SE Second St.

PARCEL: 0.500 Ac.+/- (21,776.5 sq. ft.)

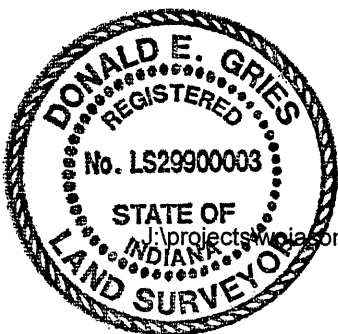
Rezoning Land Description

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Donald E. Gries, PS
Indiana Reg. No.: LS29900003

J:\projects\wja\son\9982northpark.rezoning.ld.wpd

February 3, 2016

